

2013 DRAFTING REQUEST

Bill

Received: **11/29/2012** Received By: **chanaman**
 Wanted: **As time permits** Same as LRB: **-1942**
 For: **Jon Richards (608) 266-0650** By/Representing: **Adrienne**
 May Contact: Drafter: **chanaman**
 Subject: **Criminal Law - guns and weapons** Addl. Drafters:
 Extra Copies:

Submit via email: **YES**
 Requester's email: **Rep.Richards@legis.wisconsin.gov**
 Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Require background checks for all sales of all firearms

Instructions:

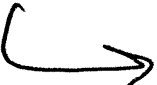
See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	chanaman 12/17/2012	kfollett 12/19/2012	rschluet 12/19/2012	_____			
/P1	chanaman 1/24/2013	kfollett 2/4/2013	jfrantze 2/4/2013	_____	lparisi 12/19/2012	chanaman 1/24/2013	State
/P2	chanaman 3/15/2013	kfollett 3/19/2013	jmurphy 3/19/2013	_____	mbarman 2/4/2013		State
/P3				_____	lparisi		State

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/1	chanaman 3/20/2013	kfollett 3/20/2013	jfrantze 3/20/2013	_____	mbarman 3/20/2013	mbarman 3/20/2013	State

FE Sent For:


 At
Intro.

<END>

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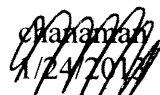
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/P3					lparisi		State

1/15/13
 3/20/13

Jacket for Assembly

Vers. Drafted

Reviewed

Typed

Proofed

Submitted

Jacketed

Required

3/19/2013

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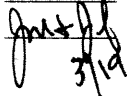
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/?	chanaman	1P115f 12/19		J 12/19/12 J M			

FE Sent For:

<END>

Hanaman, Cathlene

From: Ramirez, Adrienne
Sent: Wednesday, November 21, 2012 3:06 PM
To: Hanaman, Cathlene
Subject: Re-draft request

Cathlene-

Could you please redraft LRB-0475 to require background checks for the sale or transfer of all firearms from one private person to another. Private sellers would need to visit a licensed firearms dealer to run the necessary background check before the gun sale is finalized.

The bill should exempt certain gun transfers from background checks to include temporarily loaning firearms during hunting and sporting events, providing firearms as gifts to immediate family members, transferrign a firearm as part of an inheritance, or temporarily transferring a firearm for immediate self-defense.

Please apply the same penalties for violations that appy to licensed dealers who violate the current federal law, up to a year in jail for knowing violation of the law.

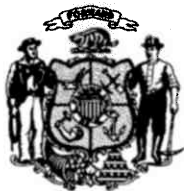
Feel free to contact me if you have any questions.

Thanks,

Adrienne
Office of Rep. Jon Richards
266-0650



13-0475_1.pdf



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-066077 P1

CMH: [signature]

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

WADS on THURS. PLEASE

1

AN ACT ...; relating to: sales and transfers of firearms

and providing a penalty

Analysis by the Legislative Reference Bureau

Current law provides that various conditions, including a background check of a prospective purchaser, must be met before a federally licensed firearms dealer may transfer a handgun after a sale. This bill generally prohibits a person from selling or transferring a firearm unless the sale or transfer occurs through a federally licensed firearms dealer. Under this bill, the following are excepted from that prohibition: a sale or transfer to a firearms dealer, a sale or transfer for which the waiting period for the purchase of a handgun under current law does not apply, a transfer that is by gift, bequest, or inheritance to a family member, or a transfer that is intended to be temporary and that has a purpose that is not illegal.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.455 (2) (gr) of the statutes is amended to read:

20.455 (2) (gr) ~~Handgun~~ Firearm purchaser record check fee. All moneys

received as fee payments under s. 175.35 (2i) (a) to provide services under s. 175.35.

History: 1971 c. 125; 1973 c. 90, 336; 1975 c. 39 s. 732 (1); 1975 c. 224; 1977 c. 29, 418; 1979 c. 34 ss. 286m, 290, 523 to 526; 1979 c. 189, 219, 355; 1981 c. 20, 169; 1983 a. 27 ss. 427 to 430, 1800; 1983 a. 199, 523; 1985 a. 29, 120; 1987 a. 27, 326, 399; 1989 a. 31, 122, 336; 1991 a. 11, 39, 269; 1993 a. 16, 98, 193, 460, 496; 1995 a. 27

ss. 1014h to 1029, 9126 (19), 9130 (4); 1995 a. 227; 1997 a. 27, 237; 1999 a. 5, 9, 186; 2001 a. 16, 109; 2003 a. 33, 139, 309, 326; 2005 a. 25 ss. 356c to 363r, 415m to 415v, 415w, 416g, 416h; 2005 a. 60, 254, 433; 2007 a. 1; 2007 a. 20 ss. 482 to 500, 9121 (6) (a); 2007 a. 200; 2009 a. 28, 179, 358; 2011 a. 32, 35.

1 **SECTION 2.** 175.33 of the statutes is created to read:

2 **175.33 Transfer of firearms.** (1) In this section: ✓

3 (a) "Family member" means a spouse, parent, grandparent, sibling, child, or
4 grandchild. The relationship may be by blood, marriage, or adoption.

5 (b) "Firearms dealer" has the meaning given in s. 175.35 (1) (ar). ✓

6 (2) No person may sell or transfer ownership of a firearm, or purchase or obtain
7 ownership of a firearm, unless one of the following applies:

8 (a) The seller or transferor is a firearms dealer. ✓

9 (b) The seller or transferor makes the sale or transfer to or through a firearms
10 dealer and obtains a receipt under s. 175.35 (2j) (b). ✓

11 (c) The sale or transfer of ownership of the firearm is one of the transfers listed
12 under s. 175.35 (2t). ✓

13 (d) The transferor is transferring ownership of the firearm to a family member ✓
14 by gift, bequest, or inheritance, the transferee is not prohibited from possessing a
15 firearm under s. 941.29, and the transferee is at least 18 years of age. ✓

16 (e) The transferor is transferring ownership of the firearm with the intent that
17 the transfer be temporary, neither the transferor nor the transferee is prohibited
18 from possessing a firearm under s. 941.29, and the purpose of the transfer is not
19 prohibited by law. ✓

20 (3) Any person who intentionally violates sub. (2) shall be fined not less than
21 \$500 nor more than \$10,000 and may be imprisoned for not more than 9 months. ✓

22 **SECTION 3.** 175.35 (title) of the statutes is amended to read: ✓

23 **175.35 (title) Waiting period for purchase of handguns firearms.** ✓

24 History: 1975 c. 167; 1991 a. 11; 1993 a. 16, 195, 196; 1995 a. 71, 77, 159, 306; 2005 a. 155, 344; 2009 a. 28, 258.

SECTION 4. 175.35 (1) (at) of the statutes is amended to read:

1 175.35 (1) (at) "Firearms restrictions record search" means a search of
2 department of justice records to determine whether a person seeking to purchase a
3 handgun firearm is prohibited from possessing a firearm under s. 941.29. "Firearms
4 restriction record search" includes a criminal history record search, a search to
5 determine whether a person is prohibited from possessing a firearm under s. 51.20
6 (13) (cv) 1., 2007 stats., a search in the national instant criminal background check
7 system to determine whether a person has been ordered not to possess a firearm
8 under s. 51.20 (13) (cv) 1., 51.45 (13) (i) 1., 54.10 (3) (f) 1., or 55.12 (10) (a), a search
9 to determine whether the person is subject to an injunction under s. 813.12 or
10 813.122, or a tribal injunction, as defined in s. 813.12 (1) (e), issued by a court
11 established by any federally recognized Wisconsin Indian tribe or band, except the
12 Menominee Indian tribe of Wisconsin, that includes notice to the respondent that he
13 or she is subject to the requirements and penalties under s. 941.29 and that has been
14 filed with the circuit court under s. 806.247 (3), and a search to determine whether
15 the person is prohibited from possessing a firearm under s. 813.125 (4m).

History: 1975 c. 167; 1991 a. 11; 1993 a. 16, 195, 196; 1995 a. 71, 77, 159, 306; 2005 a. 155, 344; 2009 a. 28, 258.

16 **SECTION 5.** 175.35 (1) (b) of the statutes is repealed.

17 **SECTION 6.** 175.35 (2) (intro.) of the statutes is renumbered 175.35 (2) (am) and
18 amended to read:

19 175.35 (2) (am) (intro.) When a firearms dealer sells or transfers a handgun
20 firearm, he or she may not transfer possession of that handgun firearm to any other
21 person until all of the following have occurred: requirements under par. (cm) have
22 been met.

History: 1975 c. 167; 1991 a. 11; 1993 a. 16, 195, 196; 1995 a. 71, 77, 159, 306; 2005 a. 155, 344; 2009 a. 28, 258.

23 **SECTION 7.** 175.35 (2) (a), (b), (c) and (d) of the statutes are renumbered 175.35

24 (2) (cm) 1., 2., 3. and 4.

1 **SECTION 8.** 175.35 (2) (bm) of the statutes is created to read:

2 175.35 (2) (bm) When a person sells a firearm or transfers ownership of a
3 firearm through a firearms dealer, the person may not transfer possession of that
4 firearm to any person other than the firearms dealer, and the firearms dealer may
5 not transfer or authorize the transfer of possession of that firearm to any person,
6 until all of the requirements of par. (cm) have been met. This paragraph does not
7 apply if a person sells a firearm, or transfers ownership of a firearm, to a firearms
8 dealer.

9 **SECTION 9.** 175.35 (2) (cm) (intro.) of the statutes is created to read:

10 175.35 (2) (cm) (intro.) All of the following must occur before a sale or transfer
11 of a firearm occurs under par. (am) or (bm).

12 **SECTION 10.** 175.35 (2g) (a) of the statutes is amended to read:

13 175.35 (2g) (a) The department of justice shall promulgate rules prescribing
14 procedures for use under sub. (2) (cm) 1. for a transferee to provide and a firearms
15 dealer to inspect identification containing a photograph of the transferee.

History: 1975 c. 167; 1991 a. 11; 1993 a. 16, 195, 196; 1995 a. 71, 77, 159, 306; 2005 a. 155, 344; 2009 a. 28, 258.

16 **SECTION 11.** 175.35 (2g) (b) of the statutes is amended to read:

17 175.35 (2g) (b) The department of justice shall promulgate rules prescribing
18 a notification form for use under sub. (2) (cm) 2, requiring the transferee to provide
19 his or her name, date of birth, gender, race and ~~social security number~~ and other
20 identification necessary to permit an accurate firearms restrictions record search
21 under par. (c) 3. and the required notification under par. (c) 4. The department of
22 justice shall make the forms available at locations throughout the state.

History: 1975 c. 167; 1991 a. 11; 1993 a. 16, 195, 196; 1995 a. 71, 77, 159, 306; 2005 a. 155, 344; 2009 a. 28, 258.

23 **SECTION 12.** 175.35 (2g) (c) 4. c. of the statutes is amended to read:

1 175.35 (2g) (c) 4. c. If the search indicates a felony charge without a recorded
2 disposition, the deadline under sub. (2) ~~(d)~~ [✓] (cm) [✓] 4, is extended to the end of the 3rd
3 complete working day commencing after the day on which the finding is made. The
4 department shall notify the firearms dealer of the extension as soon as practicable.
5 During the extended period, the department shall make every reasonable effort to
6 determine the disposition of the charge and notify the firearms dealer of the results
7 as soon as practicable.

History: 1975 c. 167; 1991 a. 11; 1993 a. 16, 195, 196; 1995 a. 71, 77, 159, 306; 2005 a. 155, 344; 2009 a. 28, 258.

8 **SECTION 13.** 175.35 (2i) of the statutes is renumbered 175.35 (2i) (a) and
9 amended to read:

10 175.35 (2i) (a) The department shall charge a firearms dealer a \$13 fee for each
11 firearms restrictions record search that the firearms dealer requests under sub. (2)
12 (e) (cm) [✓] 4. [✓] 3

13 (b) The firearms dealer may collect the fee under par. (a) from the transferee
14 or, if the transfer is made under sub. (2) (bm), from the transferor.

15 (c) The department may refuse to conduct firearms restrictions record searches
16 for any firearms dealer who fails to pay any fee under this subsection par. (a) within
17 30 days after billing by the department.

History: 1975 c. 167; 1991 a. 11; 1993 a. 16, 195, 196; 1995 a. 71, 77, 159, 306; 2005 a. 155, 344; 2009 a. 28, 258.

18 **SECTION 14.** 175.35 (2j) of the statutes is renumbered 175.35 (2j) (a).

19 **SECTION 15.** 175.35 (2j) (b) of the statutes is created [✓] to read:

20 175.35 (2j) (b) If a person sells a firearm or transfers ownership of a firearm
21 through a firearms dealer under sub. (2) [✓] (bm), or sells a firearm or transfers
22 ownership of a firearm to a firearms dealer, the firearms dealer shall provide the
23 person a written receipt documenting the dealer's participation in the sale or
24 transfer.

1 **SECTION 16.** 175.35 (2k) (ar) 2. of the statutes is amended to read:

2 175.35 (2k) (ar) 2. Check each duplicate notification form received under sub.
3 (2j) (a) against the information recorded by the department regarding the
4 corresponding request for a firearms restrictions record search under sub. (2g). If the
5 department previously provided a unique approval number regarding the request
6 and nothing in the duplicate completed notification form indicates that the
7 transferee is prohibited from possessing a firearm under s. 941.29, the department
8 shall destroy all records regarding that firearms restrictions record search within 30
9 days after receiving the duplicate form.

History: 1975 c. 167; 1991 a. 11; 1993 a. 16, 195, 196; 1995 a. 71, 77, 159, 306; 2005 a. 155, 344; 2009 a. 28, 258.

10 **SECTION 17.** 175.35 (2k) (c) 2. a. of the statutes is amended to read:

11 175.35 (2k) (c) 2. a. A statement that the Wisconsin law enforcement agency
12 is conducting an investigation of a crime in which a ~~handgun~~ firearm was used or was
13 attempted to be used or was unlawfully possessed.

History: 1975 c. 167; 1991 a. 11; 1993 a. 16, 195, 196; 1995 a. 71, 77, 159, 306; 2005 a. 155, 344; 2009 a. 28, 258.

14 **SECTION 18.** 175.35 (2k) (c) 2. b. of the statutes is amended to read:

15 175.35 (2k) (c) 2. b. A statement by a division commander or higher authority
16 within the Wisconsin law enforcement agency that he or she has a reasonable
17 suspicion that the person who is the subject of the information request has obtained
18 or is attempting to obtain a ~~handgun~~ firearm.

History: 1975 c. 167; 1991 a. 11; 1993 a. 16, 195, 196; 1995 a. 71, 77, 159, 306; 2005 a. 155, 344; 2009 a. 28, 258.

19 **SECTION 19.** 175.35 (2k) (g) of the statutes is amended to read:

20 175.35 (2k) (g) If a search conducted under sub. (2g) indicates that the
21 transferee is prohibited from possessing a firearm under s. 941.29, the attorney
22 general or his or her designee may disclose to a law enforcement agency that the
23 transferee has attempted to obtain a ~~handgun~~ firearm.

History: 1975 c. 167; 1991 a. 11; 1993 a. 16, 195, 196; 1995 a. 71, 77, 159, 306; 2005 a. 155, 344; 2009 a. 28, 258.

1 **SECTION 20.** 175.35 (2k) (h) of the statutes is amended to read: ✓

2 175.35 (2k) (h) If a search conducted under sub. (2g) indicates a felony charge
3 without a recorded disposition and the attorney general or his or her designee has
4 reasonable grounds to believe the transferee may pose a danger to himself, herself
5 or another, the attorney general or his or her designee may disclose to a law
6 enforcement agency that the transferee has obtained or has attempted to obtain a
7 handgun firearm. ✓

History: 1975 c. 167; 1991 a. 11; 1993 a. 16, 195, 196; 1995 a. 71, 77, 159, 306; 2005 a. 155, 344; 2009 a. 28, 258. ✓

8 **SECTION 21.** 175.35 (2L) of the statutes is amended to read:

9 175.35 (2L) The department of justice shall promulgate rules providing for the
10 review of nonapprovals under sub. (2g) (c) 4. a. Any person who is denied the right
11 to purchase a handgun firearm ✓ because the firearms dealer received a nonapproval
12 number under sub. (2g) (c) 4. a. may request a firearms restrictions record search
13 review under those rules. If the person disagrees with the results of that review, the
14 person may file an appeal under rules promulgated by the department.

History: 1975 c. 167; 1991 a. 11; 1993 a. 16, 195, 196; 1995 a. 71, 77, 159, 306; 2005 a. 155, 344; 2009 a. 28, 258. ✓

15 **SECTION 22.** 175.35 (2t) (a), (b) and (c) of the statutes are amended to read:

16 175.35 (2t) (a) Transfers of any handgun firearm ✓ classified as an antique by
17 regulations of the U.S. department of the treasury.

18 (b) Transfers of any handgun firearm ✓ between firearms dealers or between
19 wholesalers and dealers.

20 (c) Transfers of any handgun firearm ✓ to law enforcement or armed services
21 agencies.

History: 1975 c. 167; 1991 a. 11; 1993 a. 16, 195, 196; 1995 a. 71, 77, 159, 306; 2005 a. 155, 344; 2009 a. 28, 258. ✓

22 **SECTION 23.** 175.60 (7) (d) of the statutes is amended to read:

1 175.60 (7) (d) A fee for a background check that is equal to the fee charged under
2 s. 175.35 (2i) (a).

3 History: 2011 a. 35; s. 13.92 (1) (bm) 2.

SECTION 24. 175.60 (15) (b) 4. b. of the statutes is amended to read:

4 175.60 (15) (b) 4. b. A fee for a background check that is equal to the fee charged
5 under s. 175.35 (2i) (a).

6 History: 2011 a. 35; s. 13.92 (1) (bm) 2.

SECTION 25. 938.208 (1) (b) of the statutes is amended to read:

7 938.208 (1) (b) Probable cause exists to believe that the juvenile possessed,
8 used or threatened to use a handgun, as defined in s. ~~175.35 (1) (b)~~ 941.237 (1) (d),
9 short-barreled rifle, as defined in s. 941.28 (1) (b), or short-barreled shotgun, as
10 defined in s. 941.28 (1) (c), while committing a delinquent act that would be a felony
11 under ch. 940 if committed by an adult.

12 History: 1995 a. 77, 352; 1999 a. 9; 2001 a. 16, 61, 109; 2005 a. 277, 344; 2007 a. 97.

SECTION 26. 938.34 (4m) (b) 2. of the statutes is amended to read:

13 938.34 (4m) (b) 2. The juvenile has possessed, used or threatened to use a
14 handgun, as defined in s. ~~175.35 (1) (b)~~ 941.237 (1) (d), short-barreled rifle, as
15 defined in s. 941.28 (1) (b), or short-barreled shotgun, as defined in s. 941.28 (1) (c),
16 while committing a delinquent act that would be a felony under ch. 940 if committed
17 by an adult.

History: 1995 a. 77, 352, 440, 448; 1997 a. 27, 35, 36, 84, 130, 164, 183, 205; 1999 a. 9, 32, 57, 89, 185; 2001 a. 16, 59, 69, 109; 2003 a. 33, 50, 200, 321; 2005 a. 14, 253, 277, 344; 2007 a. 97, 116; 2009 a. 8, 28, 103, 137, 185, 302, 334; 2011 a. 32, 258; s. 35.17 correction in (3) (f) 4.

18 SECTION 27. 941.237 (1) (d) of the statutes is amended to read:

19 941.237 (1) (d) "Handgun" ~~has the meaning given in s. 175.35 (1) (b)~~ means any
20 weapon designed or redesigned, or made or remade, and intended to be fired while
21 held in one hand and to use the energy of an explosive to expel a projectile through
22 a smooth or rifled bore.

23 History: 1993 a. 95, 491; 1995 a. 461; 2007 a. 27; 2011 a. 35.

SECTION 28. 941.296 (1) (b) of the statutes is amended to read:

1 941.296 (1) (b) "Handgun" has the meaning given in s. ~~175.35 (1) (b)~~ 941.237
2 (1) (d).

History: 1993 a. 98; 1995 a. 448; 2001 a. 109.

3 **SECTION 29.** 968.20 (3) (b) of the statutes is amended to read:

4 968.20 (3) (b) Except as provided in par. (a) or sub. (1m) or (4), a city, village,
5 town or county or other custodian of a seized dangerous weapon or ammunition, if
6 the dangerous weapon or ammunition is not required for evidence or use in further
7 investigation and has not been disposed of pursuant to a court order at the
8 completion of a criminal action or proceeding, shall make reasonable efforts to notify
9 all persons who have or may have an authorized rightful interest in the dangerous
10 weapon or ammunition of the application requirements under sub. (1). If, within 30
11 days after the notice, an application under sub. (1) is not made and the seized
12 dangerous weapon or ammunition is not returned by the officer under sub. (2), the
13 city, village, town or county or other custodian may retain the dangerous weapon or
14 ammunition and authorize its use by a law enforcement agency, except that a
15 dangerous weapon used in the commission of a homicide or a handgun, as defined
16 in s. ~~175.35 (1) (b)~~ 941.237 (1) (d), may not be retained. If a dangerous weapon other
17 than a firearm is not so retained, the city, village, town or county or other custodian
18 shall safely dispose of the dangerous weapon or, if the dangerous weapon is a motor
19 vehicle, as defined in s. 340.01 (35), sell the motor vehicle following the procedure
20 under s. 973.075 (4). If a firearm or ammunition is not so retained, the city, village,
21 town or county or other custodian shall ship it to the state crime laboratories and it
22 is then the property of the laboratories. A person designated by the department of
23 justice may destroy any material for which the laboratories have no use or arrange
24 for the exchange of material with other public agencies. In lieu of destruction,

1 shoulder weapons for which the laboratory has no use shall be turned over to the
2 department of natural resources for sale and distribution of proceeds under s. 29.934
3 or for use under s. 29.938.

History: 1977 c. 260; 1977 c. 449 s. 497; 1979 c. 221; 1981 c. 160; 1983 a. 189 s. 329 (3); 1983 a. 278; 1985 a. 29 ss. 2447 to 2449, 3200 (35); 1987 a. 203; 1987 a. 332 s. 64; 1993 a. 90, 196; 1996 a. 157; 1997 a. 192, 248; 1999 a. 185; 2001 a. 16; 2005 a. 387, 394; 2009 a. 258; 2011 a. 257 s. 56.

4 **SECTION 30. Initial applicability.**

5 (1) This act first applies to sales or transfers of ownership of firearms that occur
6 on the effective date of this subsection. ✓

7 **SECTION 31. Effective date.**

8 (1) This act takes effect on the first day of the 7th month beginning after
9 publication.

10 (END)

Hanaman, Cathlene

From: Ramirez, Adrienne
Sent: Thursday, January 24, 2013 2:18 PM
To: Hanaman, Cathlene
Subject: FW: Draft review: LRB -0660/P1 Topic: Require background checks for all sales of all firearms
Attachments: 13-0660/P1.pdf

Cathlene –

Thank you so much for your work on this. We do have some minor changes to the draft.

Can you add language to authorize a dealer to charge a fee to cover their own costs for processing the transfer?

Also in Section 19 on page 6 line 24, please change “may disclose” to “shall disclose”.

Finally, does LRB-0660/P require a dealer who is processing the private transfer of a fire arm to comply with all requirements of federal, state and local laws? If not, we would like the draft to do so.

Thanks again for your help.

Adrienne
Office of Rep. Jon Richards

From: LRB.Legal
Sent: Wednesday, December 19, 2012 11:12 AM
To: Rep.Richards
Subject: Draft review: LRB -0660/P1 Topic: Require background checks for all sales of all firearms

Following is the PDF version of draft LRB -0660/P1.



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Refer act

1 **AN ACT** *to repeal* 175.35 (1) (b); *to renumber* 175.35 (2) (a), (b), (c) and (d) and
2 175.35 (2j); *to renumber and amend* 175.35 (2) (intro.) and 175.35 (2i); *to*
3 **amend** 20.455 (2) (gr), 175.35 (title), 175.35 (1) (at), 175.35 (2g) (a), 175.35 (2g)
4 (b), 175.35 (2g) (c) 4. c., 175.35 (2k) (ar) 2., 175.35 (2k) (c) 2. a., 175.35 (2k) (c)
5 2. b., 175.35 (2k) (g), 175.35 (2k) (h), 175.35 (2L), 175.35 (2t) (a), (b) and (c),
6 175.60 (7) (d), 175.60 (15) (b) 4. b., 938.208 (1) (b), 938.34 (4m) (b) 2., 941.237
7 (1) (d), 941.296 (1) (b) and 968.20 (3) (b); and *to create* 175.33, 175.35 (2) (bm),
8 175.35 (2) (cm) (intro.) and 175.35 (2j) (b) of the statutes; **relating to:** sales and
9 transfers of firearms and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law provides that various conditions, including a background check of a prospective purchaser, must be met before a federally licensed firearms dealer may transfer a handgun after a sale. This bill generally prohibits a person from selling or transferring a firearm unless the sale or transfer occurs through a federally licensed firearms dealer. Under this bill, the following are excepted from that prohibition: a sale or transfer to a firearms dealer, a sale or transfer for which the waiting period for the purchase of a handgun under current law does not apply, a

transfer that is by gift, bequest, or inheritance to a family member, or a transfer that is intended to be temporary and that has a purpose that is not illegal.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

✓

1 **SECTION 1.** 20.455 (2) (gr) of the statutes is amended to read:

2 20.455 (2) (gr) *Handgun Firearm purchaser record check fee.* All moneys
3 received as fee payments under s. 175.35 (2i) (a) to provide services under s. 175.35.

✓

4 **SECTION 2.** 175.33 of the statutes is created to read:

5 **175.33 Transfer of firearms.** (1) In this section:

6 (a) "Family member" means a spouse, parent, grandparent, sibling, child, or
7 grandchild. The relationship may be by blood, marriage, or adoption.

8 (b) "Firearms dealer" has the meaning given in s. 175.35 (1) (ar).

9 (2) No person may sell or transfer ownership of a firearm, or purchase or obtain
10 ownership of a firearm, unless one of the following applies:

11 (a) The seller or transferor is a firearms dealer.

12 (b) The seller or transferor makes the sale or transfer to or through a firearms
13 dealer and obtains a receipt under s. 175.35 (2j) (b).

14 (c) The sale or transfer of ownership of the firearm is one of the transfers listed
15 under s. 175.35 (2t).

16 (d) The transferor is transferring ownership of the firearm to a family member
17 by gift, bequest, or inheritance, the transferee is not prohibited from possessing a
18 firearm under s. 941.29, and the transferee is at least 18 years of age.

19 (e) The transferor is transferring ownership of the firearm with the intent that
20 the transfer be temporary, neither the transferor nor the transferee is prohibited

1 from possessing a firearm under s. 941.29, and the purpose of the transfer is not
2 prohibited by law.

3 (3) Any person who intentionally violates sub. (2) shall be fined not less than
4 \$500 nor more than \$10,000 and may be imprisoned for not more than 9 months.

5 SECTION 3. 175.35 (title) of the statutes is amended to read:

6 175.35 (title) **Waiting period for purchase of ~~handguns~~ firearms.**

7 SECTION 4. 175.35 (1) (at) of the statutes is amended to read:

8 175.35 (1) (at) "Firearms restrictions record search" means a search of
9 department of justice records to determine whether a person seeking to purchase a
10 ~~handgun~~ firearm is prohibited from possessing a firearm under s. 941.29. "Firearms
11 restriction record search" includes a criminal history record search, a search to
12 determine whether a person is prohibited from possessing a firearm under s. 51.20
13 (13) (cv) 1., 2007 stats., a search in the national instant criminal background check
14 system to determine whether a person has been ordered not to possess a firearm
15 under s. 51.20 (13) (cv) 1., 51.45 (13) (i) 1., 54.10 (3) (f) 1., or 55.12 (10) (a), a search
16 to determine whether the person is subject to an injunction under s. 813.12 or
17 813.122, or a tribal injunction, as defined in s. 813.12 (1) (e), issued by a court
18 established by any federally recognized Wisconsin Indian tribe or band, except the
19 Menominee Indian tribe of Wisconsin, that includes notice to the respondent that he
20 or she is subject to the requirements and penalties under s. 941.29 and that has been
21 filed with the circuit court under s. 806.247 (3), and a search to determine whether
22 the person is prohibited from possessing a firearm under s. 813.125 (4m).

23 SECTION 5. 175.35 (1) (b) of the statutes is repealed.

24 SECTION 6. 175.35 (2) (intro.) of the statutes is renumbered 175.35 (2) (am) and
25 amended to read:

1 175.35 (2) (am) When a firearms dealer sells or transfers a handgun firearm,
2 he or she may not transfer possession of that handgun firearm to any other person
3 until all of the ~~following have occurred~~: requirements under par. (cm) have been met.

4 **SECTION 7.** 175.35 (2) (a), (b), (c) and (d) of the statutes are renumbered 175.35
5 (2) (cm) 1., 2., 3. and 4.

6 **SECTION 8.** 175.35 (2) (bm) of the statutes is created to read:

7 175.35 (2) (bm) When a person sells a firearm or transfers ownership of a
8 firearm through a firearms dealer, the person may not transfer possession of that
9 firearm to any person other than the firearms dealer, and the firearms dealer may
10 not transfer or authorize the transfer of possession of that firearm to any person,
11 until all of the requirements of par. (cm) have been met. This paragraph does not
12 apply if a person sells a firearm, or transfers ownership of a firearm, to a firearms
13 dealer.

14 **SECTION 9.** 175.35 (2) (cm) (intro.) of the statutes is created to read:

15 175.35 (2) (cm) (intro.) All of the following must occur before a sale or transfer
16 of a firearm occurs under par. (am) or (bm):

17 **SECTION 10.** 175.35 (2g) (a) of the statutes is amended to read:

18 175.35 (2g) (a) The department of justice shall promulgate rules prescribing
19 procedures for use under sub. (2) (cm) 1. for a transferee to provide and a firearms
20 dealer to inspect identification containing a photograph of the transferee.

21 **SECTION 11.** 175.35 (2g) (b) of the statutes is amended to read:

22 175.35 (2g) (b) The department of justice shall promulgate rules prescribing
23 a notification form for use under sub. (2) (cm) 2. requiring the transferee to provide
24 his or her name, date of birth, gender, race ~~and social security number~~, and other
25 identification necessary to permit an accurate firearms restrictions record search

1 under par. (c) 3. and the required notification under par. (c) 4. The department of
2 justice shall make the forms available at locations throughout the state.

3 **SECTION 12.** 175.35 (2g) (c) 4. c. of the statutes is amended to read:

4 175.35 (2g) (c) 4. c. If the search indicates a felony charge without a recorded
5 disposition, the deadline under sub. (2) ~~(d)~~ (cm) 4. is extended to the end of the 3rd
6 complete working day commencing after the day on which the finding is made. The
7 department shall notify the firearms dealer of the extension as soon as practicable.
8 During the extended period, the department shall make every reasonable effort to
9 determine the disposition of the charge and notify the firearms dealer of the results
10 as soon as practicable.

11 **SECTION 13.** 175.35 (2i) of the statutes is renumbered 175.35 (2i) (a) and
12 amended to read:

13 175.35 (2i) (a) The department shall charge a firearms dealer a \$13 fee for each
14 firearms restrictions record search that the firearms dealer requests under sub. (2)
15 ~~(e)~~ (cm) 3.

16 (b) The firearms dealer may collect the fee under par. (a) from the transferee
17 or, if the transfer is made under sub. (2) (bm), from the transferor.

18 (c) The department may refuse to conduct firearms restrictions record searches
19 for any firearms dealer who fails to pay any fee under ~~this subsection~~ par. (a) within
20 30 days after billing by the department.

21 **SECTION 14.** 175.35 (2j) of the statutes is renumbered 175.35 (2j) (a).

22 **SECTION 15.** 175.35 (2j) (b) of the statutes is created to read:

23 175.35 (2j) (b) If a person sells a firearm or transfers ownership of a firearm
24 through a firearms dealer under sub. (2) (bm), or sells a firearm or transfers
25 ownership of a firearm to a firearms dealer, the firearms dealer shall provide the

WS
5-21

1 person a written receipt documenting the dealer's participation in the sale or
2 transfer.

3 **SECTION 16.** 175.35 (2k) (ar) 2. of the statutes is amended to read: ✓

4 175.35 (2k) (ar) 2. Check each duplicate notification form received under sub.
5 (2j) (a) against the information recorded by the department regarding the
6 corresponding request for a firearms restrictions record search under sub. (2g). If the
7 department previously provided a unique approval number regarding the request
8 and nothing in the duplicate completed notification form indicates that the
9 transferee is prohibited from possessing a firearm under s. 941.29, the department
10 shall destroy all records regarding that firearms restrictions record search within 30
11 days after receiving the duplicate form.

12 **SECTION 17.** 175.35 (2k) (c) 2. a. of the statutes is amended to read: ✓

13 175.35 (2k) (c) 2. a. A statement that the Wisconsin law enforcement agency
14 is conducting an investigation of a crime in which a ~~handgun~~ firearm was used or was
15 attempted to be used or was unlawfully possessed.

16 **SECTION 18.** 175.35 (2k) (c) 2. b. of the statutes is amended to read: ✓

17 175.35 (2k) (c) 2. b. A statement by a division commander or higher authority
18 within the Wisconsin law enforcement agency that he or she has a reasonable
19 suspicion that the person who is the subject of the information request has obtained
20 or is attempting to obtain a ~~handgun~~ firearm.

21 **SECTION 19.** 175.35 (2k) (g) of the statutes is amended to read: ✓

22 175.35 (2k) (g) If a search conducted under sub. (2g) indicates that the
23 transferee is prohibited from possessing a firearm under s. 941.29, the attorney
24 general or his or her designee ~~may~~ ^{shall} disclose to a law enforcement agency that the
25 transferee has attempted to obtain a ~~handgun~~ firearm.

1 **SECTION 20.** 175.35 (2k) (h) of the statutes is amended to read:

2 175.35 (2k) (h) If a search conducted under sub. (2g) indicates a felony charge
3 without a recorded disposition and the attorney general or his or her designee has
4 reasonable grounds to believe the transferee may pose a danger to himself, herself
5 or another, the attorney general or his or her designee may disclose to a law
6 enforcement agency that the transferee has obtained or has attempted to obtain a
7 handgun firearm.

8 **SECTION 21.** 175.35 (2L) of the statutes is amended to read:

9 175.35 (2L) The department of justice shall promulgate rules providing for the
10 review of nonapprovals under sub. (2g) (c) 4. a. Any person who is denied the right
11 to purchase a handgun firearm because the firearms dealer received a nonapproval
12 number under sub. (2g) (c) 4. a. may request a firearms restrictions record search
13 review under those rules. If the person disagrees with the results of that review, the
14 person may file an appeal under rules promulgated by the department.

15 **SECTION 22.** 175.35 (2t) (a), (b) and (c) of the statutes are amended to read:

16 175.35 (2t) (a) Transfers of any handgun firearm classified as an antique by
17 regulations of the U.S. department of the treasury.

18 (b) Transfers of any handgun firearm between firearms dealers or between
19 wholesalers and dealers.

20 (c) Transfers of any handgun firearm to law enforcement or armed services
21 agencies.

22 **SECTION 23.** 175.60 (7) (d) of the statutes is amended to read:

23 175.60 (7) (d) A fee for a background check that is equal to the fee charged under
24 s. 175.35 (2i) (a).

25 **SECTION 24.** 175.60 (15) (b) 4. b. of the statutes is amended to read:

1 175.60 (15) (b) 4. b. A fee for a background check that is equal to the fee charged
2 under s. 175.35 (2i) (a). ✓

3 **SECTION 25.** 938.208 (1) (b) of the statutes is amended to read:

4 938.208 (1) (b) Probable cause exists to believe that the juvenile possessed,
5 used or threatened to use a handgun, as defined in s. ~~175.35 (1) (b)~~ 941.237 (1) (d),
6 short-barreled rifle, as defined in s. 941.28 (1) (b), or short-barreled shotgun, as
7 defined in s. 941.28 (1) (c), while committing a delinquent act that would be a felony
8 under ch. 940 if committed by an adult. ✓

9 **SECTION 26.** 938.34 (4m) (b) 2. of the statutes is amended to read:

10 938.34 (4m) (b) 2. The juvenile has possessed, used or threatened to use a
11 handgun, as defined in s. ~~175.35 (1) (b)~~ 941.237 (1) (d), short-barreled rifle, as
12 defined in s. 941.28 (1) (b), or short-barreled shotgun, as defined in s. 941.28 (1) (c),
13 while committing a delinquent act that would be a felony under ch. 940 if committed
14 by an adult. ✓

15 **SECTION 27.** 941.237 (1) (d) of the statutes is amended to read:

16 941.237 (1) (d) “Handgun” ~~has the meaning given in s. 175.35 (1) (b)~~ means any
17 weapon designed or redesigned, or made or remade, and intended to be fired while
18 held in one hand and to use the energy of an explosive to expel a projectile through
19 a smooth or rifled bore. ✓

20 **SECTION 28.** 941.296 (1) (b) of the statutes is amended to read:

21 941.296 (1) (b) “Handgun” has the meaning given in s. ~~175.35 (1) (b)~~ 941.237
22 (1) (d). ✓

23 **SECTION 29.** 968.20 (3) (b) of the statutes is amended to read:

24 968.20 (3) (b) Except as provided in par. (a) or sub. (1m) or (4), a city, village,
25 town or county or other custodian of a seized dangerous weapon or ammunition, if

1 the dangerous weapon or ammunition is not required for evidence or use in further
2 investigation and has not been disposed of pursuant to a court order at the
3 completion of a criminal action or proceeding, shall make reasonable efforts to notify
4 all persons who have or may have an authorized rightful interest in the dangerous
5 weapon or ammunition of the application requirements under sub. (1). If, within 30
6 days after the notice, an application under sub. (1) is not made and the seized
7 dangerous weapon or ammunition is not returned by the officer under sub. (2), the
8 city, village, town or county or other custodian may retain the dangerous weapon or
9 ammunition and authorize its use by a law enforcement agency, except that a
10 dangerous weapon used in the commission of a homicide or a handgun, as defined
11 in s. 175.35 (1) (b) 941.237 (1) (d), may not be retained. If a dangerous weapon other
12 than a firearm is not so retained, the city, village, town or county or other custodian
13 shall safely dispose of the dangerous weapon or, if the dangerous weapon is a motor
14 vehicle, as defined in s. 340.01 (35), sell the motor vehicle following the procedure
15 under s. 973.075 (4). If a firearm or ammunition is not so retained, the city, village,
16 town or county or other custodian shall ship it to the state crime laboratories and it
17 is then the property of the laboratories. A person designated by the department of
18 justice may destroy any material for which the laboratories have no use or arrange
19 for the exchange of material with other public agencies. In lieu of destruction,
20 shoulder weapons for which the laboratory has no use shall be turned over to the
21 department of natural resources for sale and distribution of proceeds under s. 29.934
22 or for use under s. 29.938.

23 **SECTION 30. Initial applicability.**

24 (1) This act first applies to sales or transfers of ownership of firearms that occur
25 on the effective date of this subsection.

1 SECTION 31. Effective date.

2 (1) This act takes effect on the first day of the 7th month beginning after
3 publication.

4 (END)

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0660/p2ins
CMH:.....

1 Insert 5-21

2 **SECTION 1.** 175.35 (2i) (b) 2. of the statutes is created to read:

3 175.35 **(2i)** (b) 2. If the transfer is made under sub. (2) (bm), the firearms dealer
4 may collect from the transferor the fee under par. (a) and any additional amount to
5 cover any costs he or she incurs in processing the transfer.

Hanaman, Cathlene

From: Ramirez, Adrienne
Sent: Wednesday, March 13, 2013 2:54 PM
To: Hanaman, Cathlene
Subject: FW: Draft review: LRB -0660/P2 Topic: Require background checks for all sales of all firearms
Attachments: 13-0660/P2.pdf

Cathlene –

Could you please redraft LRB-0660/P2 to include a penalty for selling a firearm without conducting a background check. Please stipulate that it would be a misdemeanor and that the individual who has broken the law is disqualified from owning (or selling) a gun for 2 years. Finally, could you specify that anyone transferring a firearm in violation of the law can be held civilly liable for damages occurring with the firearm.

Please feel free to call if you have any questions. Thank you for your help with this.

Adrienne
Office of Rep. Jon Richards
266-0650

PJH --
already
civilly
liable
if
misconduct
law
duty

From: LRB.Legal
Sent: Monday, February 04, 2013 1:44 PM
To: Rep.Richards
Subject: Draft review: LRB -0660/P2 Topic: Require background checks for all sales of all firearms

Following is the PDF version of draft LRB -0660/P2.



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0660/PZ
CMH:kjf:jf

P3

Scott
in 3/15

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Today

repeal

1 **AN ACT to repeal** 175.35 (1) (b); **to renumber** 175.35 (2) (a), (b), (c) and (d) and
2 175.35 (2j); **to renumber and amend** 175.35 (2) (intro.) and 175.35 (2i); **to**
3 **amend** 20.455 (2) (gr), 175.35 (title), 175.35 (1) (at), 175.35 (2g) (a), 175.35 (2g)
4 (b), 175.35 (2g) (c) 4. c., 175.35 (2k) (ar) 2., 175.35 (2k) (c) 2. a., 175.35 (2k) (c)
5 2. b., 175.35 (2k) (g), 175.35 (2k) (h), 175.35 (2L), 175.35 (2t) (a), (b) and (c),
6 175.60 (7) (d), 175.60 (15) (b) 4. b., 938.208 (1) (b), 938.34 (4m) (b) 2., 941.237
7 (1) (d), 941.296 (1) (b) and 968.20 (3) (b); and **to create** 175.33, 175.35 (2) (bm),
8 175.35 (2) (cm) (intro.), 175.35 (2i) (b) 2. and 175.35 (2j) (b) of the statutes;
9 **relating to:** sales and transfers of firearms and providing a penalty.

involves
Analysis by the Legislative Reference Bureau *and involves a background check of the prospective transfer to*

X
Current law provides that various conditions, including a background check of a prospective purchaser, must be met before a federally licensed firearms dealer may transfer a handgun after a sale. This bill generally prohibits a person from selling or transferring a firearm unless the sale or transfer occurs through a federally licensed firearms dealer. Under this bill, the following are excepted from that prohibition: a sale or transfer to a firearms dealer, a sale or transfer for which the waiting period for the purchase of a handgun under current law does not apply, a

transfer that is by gift, bequest, or inheritance to a family member, or a transfer that is intended to be temporary and that has a purpose that is not illegal.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

✓

SECTION 1. 20.455 (2) (gr) of the statutes is amended to read:

20.455 (2) (gr) ~~Handgun~~ Firearm purchaser record ~~check~~ fee. All moneys received as fee payments under s. 175.35 (2i) (a) to provide services under s. 175.35.

SECTION 2. 175.33 of the statutes is created to read:

175.33 Transfer of firearms. (1) In this section:

(a) “Family member” means a spouse, parent, grandparent, sibling, child, or grandchild. The relationship may be by blood, marriage, or adoption.

(b) “Firearms dealer” has the meaning given in s. 175.35 (1) (ar).

(2) No person may sell or transfer ownership of a firearm, or purchase or obtain ownership of a firearm, unless one of the following applies:

(a) The seller or transferor is a firearms dealer.

(b) The seller or transferor makes the sale or transfer to or through a firearms dealer and obtains a receipt under s. 175.35 (2j) (b).

(c) The sale or transfer of ownership of the firearm is one of the transfers listed under s. 175.35 (2t).

(d) The transferor is transferring ownership of the firearm to a family member by gift, bequest, or inheritance, the transferee is not prohibited from possessing a firearm under s. 941.29, and the transferee is at least 18 years of age.

(e) The transferor is transferring ownership of the firearm with the intent that the transfer be temporary, neither the transferor nor the transferee is prohibited

1 from possessing a firearm under s. 941.29, and the purpose of the transfer is not
2 prohibited by law.

3 (3) Any person who intentionally violates sub. (2) *is guilty of a misdemeanor and* shall be fined not less than
4 \$500 nor more than \$10,000 and may be imprisoned for not more than 9 months.

5 **SECTION 3.** 175.35 (title) of the statutes *✓* is amended to read:

6 **175.35 (title) Waiting period for purchase of handguns firearms.**

7 **SECTION 4.** 175.35 (1) (at) of the statutes is amended to read:

8 175.35 (1) (at) "Firearms restrictions record search" means a search of
9 department of justice records to determine whether a person seeking to purchase a
10 handgun firearm is prohibited from possessing a firearm under s. 941.29. "Firearms
11 restriction record search" includes a criminal history record search, a search to
12 determine whether a person is prohibited from possessing a firearm under s. 51.20
13 (13) (cv) 1., 2007 stats., a search in the national instant criminal background check
14 system to determine whether a person has been ordered not to possess a firearm
15 under s. 51.20 (13) (cv) 1., 51.45 (13) (i) 1., 54.10 (3) (f) 1., or 55.12 (10) (a), a search
16 to determine whether the person is subject to an injunction under s. 813.12 or
17 813.122, or a tribal injunction, as defined in s. 813.12 (1) (e), issued by a court
18 established by any federally recognized Wisconsin Indian tribe or band, except the
19 Menominee Indian tribe of Wisconsin, that includes notice to the respondent that he
20 or she is subject to the requirements and penalties under s. 941.29 and that has been
21 filed with the circuit court under s. 806.247 (3), and a search to determine whether
22 the person is prohibited from possessing a firearm under s. 813.125 (4m).

23 **SECTION 5.** 175.35 (1) (b) of the statutes *✓* is repealed.

24 **SECTION 6.** 175.35 (2) (intro.) of the statutes is renumbered 175.35 (2) (am) and
25 amended to read:

INS
3-4

1 175.35 (2) (am) When a firearms dealer sells or transfers a ~~handgun~~ firearm,
2 he or she may not transfer possession of that ~~handgun~~ firearm to any other person
3 until all of the ~~following have occurred~~: requirements under par. (cm) have been met.

4 **SECTION 7.** 175.35 (2) (a), (b), (c) and (d) of the statutes are renumbered 175.35
5 (2) (cm) 1., 2., 3. and 4.

6 **SECTION 8.** 175.35 (2) (bm) of the statutes is created to read:

7 175.35 (2) (bm) When a person sells a firearm or transfers ownership of a
8 firearm through a firearms dealer, the person may not transfer possession of that
9 firearm to any person other than the firearms dealer, and the firearms dealer may
10 not transfer or authorize the transfer of possession of that firearm to any person,
11 until all of the requirements of par. (cm) have been met. This paragraph does not
12 apply if a person sells a firearm, or transfers ownership of a firearm, to a firearms
13 dealer.

14 **SECTION 9.** 175.35 (2) (cm) (intro.) of the statutes is created to read:

15 175.35 (2) (cm) (intro.) All of the following must occur before a sale or transfer
16 of a firearm occurs under par. (am) or (bm):

17 **SECTION 10.** 175.35 (2g) (a) of the statutes is amended to read:

18 175.35 (2g) (a) The department of justice shall promulgate rules prescribing
19 procedures for use under sub. (2) (cm) 1. for a transferee to provide and a firearms
20 dealer to inspect identification containing a photograph of the transferee.

21 **SECTION 11.** 175.35 (2g) (b) of the statutes is amended to read:

22 175.35 (2g) (b) The department of justice shall promulgate rules prescribing
23 a notification form for use under sub. (2) (cm) 2. requiring the transferee to provide
24 his or her name, date of birth, gender, race ~~and social security number~~, and other
25 identification necessary to permit an accurate firearms restrictions record search

1 under par. (c) 3. and the required notification under par. (c) 4. The department of
2 justice shall make the forms available at locations throughout the state.

3 **SECTION 12.** 175.35 (2g) (c) 4. c. of the statutes is amended to read:

4 175.35 (2g) (c) 4. c. If the search indicates a felony charge without a recorded
5 disposition, the deadline under sub. (2) ~~(d)~~ (cm) 4. is extended to the end of the 3rd
6 complete working day commencing after the day on which the finding is made. The
7 department shall notify the firearms dealer of the extension as soon as practicable.
8 During the extended period, the department shall make every reasonable effort to
9 determine the disposition of the charge and notify the firearms dealer of the results
10 as soon as practicable.

11 **SECTION 13.** 175.35 (2i) of the statutes is renumbered 175.35 (2i) (a) and
12 amended to read:

13 175.35 (2i) (a) The department shall charge a firearms dealer a \$13 fee for each
14 firearms restrictions record search that the firearms dealer requests under sub. (2)
15 ~~(e)~~ (cm) 3.

16 (b) 1. The firearms dealer may collect the fee under par. (a) from the transferee.

17 (c) The department may refuse to conduct firearms restrictions record searches
18 for any firearms dealer who fails to pay any fee under ~~this subsection~~ par. (a) within
19 30 days after billing by the department.

20 **SECTION 14.** 175.35 (2i) (b) 2. of the statutes is created to read:

21 175.35 (2i) (b) 2. If the transfer is made under sub. (2) (bm), the firearms dealer
22 may collect from the transferor the fee under par. (a) and any additional amount to
23 cover any costs he or she incurs in processing the transfer.

24 **SECTION 15.** 175.35 (2j) of the statutes is renumbered 175.35 (2j) (a).

25 **SECTION 16.** 175.35 (2j) (b) of the statutes is created to read:

1 175.35 (2j) (b) If a person sells a firearm or transfers ownership of a firearm
2 through a firearms dealer under sub. (2) (bm), or sells a firearm or transfers
3 ownership of a firearm to a firearms dealer, the firearms dealer shall provide the
4 person a written receipt documenting the dealer's participation in the sale or
5 transfer.

6 **SECTION 17.** 175.35 (2k) (ar) 2. of the statutes[✓] is amended to read:

7 175.35 (2k) (ar) 2. Check each duplicate notification form received under sub.
8 (2j) (a) against the information recorded by the department regarding the
9 corresponding request for a firearms restrictions record search under sub. (2g). If the
10 department previously provided a unique approval number regarding the request
11 and nothing in the duplicate completed notification form indicates that the
12 transferee is prohibited from possessing a firearm under s. 941.29, the department
13 shall destroy all records regarding that firearms restrictions record search within 30
14 days after receiving the duplicate form.

15 **SECTION 18.** 175.35 (2k) (c) 2. a. of the statutes[✓] is amended to read:

16 175.35 (2k) (c) 2. a. A statement that the Wisconsin law enforcement agency
17 is conducting an investigation of a crime in which a ~~handgun~~ firearm was used or was
18 attempted to be used or was unlawfully possessed.

19 **SECTION 19.** 175.35 (2k) (c) 2. b. of the statutes[✓] is amended to read:

20 175.35 (2k) (c) 2. b. A statement by a division commander or higher authority
21 within the Wisconsin law enforcement agency that he or she has a reasonable
22 suspicion that the person who is the subject of the information request has obtained
23 or is attempting to obtain a ~~handgun~~ firearm.

24 **SECTION 20.** 175.35 (2k) (g) of the statutes[✓] is amended to read:

1 175.35 (2k) (g) If a search conducted under sub. (2g) indicates that the
2 transferee is prohibited from possessing a firearm under s. 941.29, the attorney
3 general or his or her designee ~~may~~ shall disclose to a law enforcement agency that
4 the transferee has attempted to obtain a ~~handgun~~ firearm.

5 **SECTION 21.** 175.35 (2k) (h) of the statutes is amended to read:

6 175.35 (2k) (h) If a search conducted under sub. (2g) indicates a felony charge
7 without a recorded disposition and the attorney general or his or her designee has
8 reasonable grounds to believe the transferee may pose a danger to himself, herself
9 or another, the attorney general or his or her designee may disclose to a law
10 enforcement agency that the transferee has obtained or has attempted to obtain a
11 ~~handgun~~ firearm.

12 **SECTION 22.** 175.35 (2L) of the statutes is amended to read:

13 175.35 (2L) The department of justice shall promulgate rules providing for the
14 review of nonapprovals under sub. (2g) (c) 4. a. Any person who is denied the right
15 to purchase a ~~handgun~~ firearm because the firearms dealer received a nonapproval
16 number under sub. (2g) (c) 4. a. may request a firearms restrictions record search
17 review under those rules. If the person disagrees with the results of that review, the
18 person may file an appeal under rules promulgated by the department.

19 **SECTION 23.** 175.35 (2t) (a), (b) and [✓](c) of the statutes are amended to read:

20 175.35 (2t) (a) Transfers of any ~~handgun~~ firearm classified as an antique by
21 regulations of the U.S. department of the treasury.

22 (b) Transfers of any ~~handgun~~ firearm between firearms dealers or between
23 wholesalers and dealers.

24 (c) Transfers of any ~~handgun~~ firearm to law enforcement or armed services
25 agencies.

✓
1 **SECTION 24.** 175.60 (7) (d) of the statutes is amended to read:

2 175.60 (7) (d) A fee for a background check that is equal to the fee charged under
3 s. 175.35 (2i) (a).

✓
4 **SECTION 25.** 175.60 (15) (b) 4. b. of the statutes is amended to read:

5 175.60 (15) (b) 4. b. A fee for a background check that is equal to the fee charged
6 under s. 175.35 (2i) (a).

✓
7 **SECTION 26.** 938.208 (1) (b) of the statutes is amended to read:

8 938.208 (1) (b) Probable cause exists to believe that the juvenile possessed,
9 used or threatened to use a handgun, as defined in s. ~~175.35 (1) (b)~~ 941.237 (1) (d),
10 short-barreled rifle, as defined in s. 941.28 (1) (b), or short-barreled shotgun, as
11 defined in s. 941.28 (1) (c), while committing a delinquent act that would be a felony
12 under ch. 940 if committed by an adult.

✓
13 **SECTION 27.** 938.34 (4m) (b) 2. of the statutes is amended to read:

14 938.34 (4m) (b) 2. The juvenile has possessed, used or threatened to use a
15 handgun, as defined in s. ~~175.35 (1) (b)~~ 941.237 (1) (d), short-barreled rifle, as
16 defined in s. 941.28 (1) (b), or short-barreled shotgun, as defined in s. 941.28 (1) (c),
17 while committing a delinquent act that would be a felony under ch. 940 if committed
18 by an adult.

✓
19 **SECTION 28.** 941.237 (1) (d) of the statutes is amended to read:

20 941.237 (1) (d) "Handgun" ~~has the meaning given in s. 175.35 (1) (b)~~ means any
21 weapon designed or redesigned, or made or remade, and intended to be fired while
22 held in one hand and to use the energy of an explosive to expel a projectile through
23 a smooth or rifled bore.

✓
24 **SECTION 29.** 941.296 (1) (b) of the statutes is amended to read:

1 941.296 (1) (b) "Handgun" has the meaning given in s. ~~175.35 (1) (b)~~ 941.237
2 (1) (d).

3 **SECTION 30.** 968.20 (3) (b) of the statutes is amended to read: ✓

4 968.20 (3) (b) Except as provided in par. (a) or sub. (1m) or (4), a city, village,
5 town or county or other custodian of a seized dangerous weapon or ammunition, if
6 the dangerous weapon or ammunition is not required for evidence or use in further
7 investigation and has not been disposed of pursuant to a court order at the
8 completion of a criminal action or proceeding, shall make reasonable efforts to notify
9 all persons who have or may have an authorized rightful interest in the dangerous
10 weapon or ammunition of the application requirements under sub. (1). If, within 30
11 days after the notice, an application under sub. (1) is not made and the seized
12 dangerous weapon or ammunition is not returned by the officer under sub. (2), the
13 city, village, town or county or other custodian may retain the dangerous weapon or
14 ammunition and authorize its use by a law enforcement agency, except that a
15 dangerous weapon used in the commission of a homicide or a handgun, as defined
16 in s. ~~175.35 (1) (b)~~ 941.237 (1) (d), may not be retained. If a dangerous weapon other
17 than a firearm is not so retained, the city, village, town or county or other custodian
18 shall safely dispose of the dangerous weapon or, if the dangerous weapon is a motor
19 vehicle, as defined in s. 340.01 (35), sell the motor vehicle following the procedure
20 under s. 973.075 (4). If a firearm or ammunition is not so retained, the city, village,
21 town or county or other custodian shall ship it to the state crime laboratories and it
22 is then the property of the laboratories. A person designated by the department of
23 justice may destroy any material for which the laboratories have no use or arrange
24 for the exchange of material with other public agencies. In lieu of destruction,
25 shoulder weapons for which the laboratory has no use shall be turned over to the

1 941.29 (2) (dm) The person possesses a firearm subsequent to the conviction,
2 as specified under sub. (1) (dm), unless 2 years have passed since the conviction.

3 **SECTION 6.** 941.29 (2) (dn) of the statutes is created[✓] to read:

4 941.29 (2) (dn) The person possesses a firearm subsequent to the adjudication,
5 as specified under sub. (1) (dn), unless 2 years have passed since the adjudication.

6 **SECTION 7.** 941.29 (2) (do) of the statutes is created[✓] to read:

7 941.29 (2) (do) The person possesses a firearm subsequent to the finding of not
8 guilty or not responsible by reason of insanity or^a mental disease or defect as specified
9 in sub. (1) (do), unless 2 years have passed since the finding.

10
11 Insert 10-2

12 **SECTION 8.** 971.17 (1g) of the statutes is amended[✓] to read:

13 971.17 (1g) NOTICE OF RESTRICTION ON FIREARM POSSESSION. If the defendant
14 under sub. (1) is found not guilty of a felony, or of a violation under s. 175.33 (3),[✓] by
15 reason of mental disease or defect, the court shall inform the defendant of the
16 requirements and penalties under s. 941.29.

History: 1975 c. 430; 1977 c. 353; 1977 c. 428 s. 115; 1983 a. 359; Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1987 a. 394; 1989 a. 31, 142, 334, 359; Sup. Ct. Order, 158 Wis. 2d xvii (1990); 1991 a. 39, 189, 269; 1993 a. 16, 98, 227; 1995 a. 27 s. 9126 (19); 1995 a. 417, 425, 440, 448; 1997 a. 35, 130, 181, 252, 275; 1999 a. 89; 2001 a. 95, 109; 2003 a. 50; 2005 a. 277, 431; 2007 a. 20 ss. 3875, 9121 (6) (a); 2007 a. 116; 2009 a. 26, 28, 137, 261; 2011 a. 258.

17 **SECTION 9.** 973.176 (1) of the statutes is amended to read:

18 973.176 (1) FIREARM POSSESSION. Whenever a court imposes a sentence or
19 places a defendant on probation regarding a felony conviction or regarding a
20 conviction for a misdemeanor under s. 175.33 (3),[✓] the court shall inform the
21 defendant of the requirements and penalties under s. 941.29.

History: 2003 a. 121 ss. 2, 3, 5; 2005 a. 277, 451; 2007 a. 116.

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0660/2ins
CMH:.....

1 Insert A (no paragraph)

no P A person who is convicted of violating the prohibition is guilty of a misdemeanor and must be fined not less than \$500 nor more than \$10,000, may be imprisoned for not more than nine months, and may not possess a firearm for a period of two years.

2
3 Ins 3-4 (no paragraph)

4 The person is also prohibited from possessing a firearm for a period of two years. *under s. 941.29*

5
6 Insert 8-19

7 SECTION 1. 938.341 of the statutes is amended to read:

8 **938.341 Delinquency adjudication; restriction on firearm possession.**

9 Whenever a court adjudicates a juvenile delinquent for an act that if committed by
10 an adult in this state would be a felony or for a violation of s. 175.33 (3), the court shall
11 inform the juvenile of the requirements and penalties under s. 941.29.

12 History: 1995 a. 77.

13 Insert 8-24

14 SECTION 2. 941.29 (1) (dm) of the statutes is created to read:

15 941.29 (1) (dm) Convicted of a misdemeanor under s. 175.33 (3).

16 SECTION 3. 941.29 (1) (dn) of the statutes is created to read:

17 941.29 (1) (dn) Adjudicated delinquent for a violation under s. 175.33 (3).

18 SECTION 4. 941.29 (1) (do) of the statutes is created to read:

19 941.29 (1) (do) Found not guilty of a misdemeanor under s. 175.33 (3) by reason
20 of mental disease or defect.

21 SECTION 5. 941.29 (2) (dm) of the statutes is created to read:

1 department of natural resources for sale and distribution of proceeds under s. 29.934
2 or for use under s. 29.938.

NS
10-2
3 **SECTION 31. Initial applicability.**

4 (1) This act first applies to sales or transfers of ownership of firearms that occur
5 on the effective date of this subsection.

6 **SECTION 32. Effective date.**

7 (1) This act takes effect on the first day of the 7th month beginning after
8 publication.

9 (END)



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0660/P8
CMH:kjf:jm

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

no changes

rmf

repeal

1 AN ACT *to repeal* 175.35 (1) (b); *to renumber* 175.35 (2) (a), (b), (c) and (d) and
2 175.35 (2j); *to renumber and amend* 175.35 (2) (intro.) and 175.35 (2i); *to*
3 *amend* 20.455 (2) (gr), 175.35 (title), 175.35 (1) (at), 175.35 (2g) (a), 175.35 (2g)
4 (b), 175.35 (2g) (c) 4. c., 175.35 (2k) (ar) 2., 175.35 (2k) (c) 2. a., 175.35 (2k) (c)
5 2. b., 175.35 (2k) (g), 175.35 (2k) (h), 175.35 (2L), 175.35 (2t) (a), (b) and (c),
6 175.60 (7) (d), 175.60 (15) (b) 4. b., 938.208 (1) (b), 938.34 (4m) (b) 2., 938.341,
7 941.237 (1) (d), 941.296 (1) (b), 968.20 (3) (b), 971.17 (1g) and 973.176 (1); and
8 *to create* 175.33, 175.35 (2) (bm), 175.35 (2) (cm) (intro.), 175.35 (2i) (b) 2.,
9 175.35 (2j) (b), 941.29 (1) (dm), 941.29 (1) (dn), 941.29 (1) (do), 941.29 (2) (dm),
10 941.29 (2) (dn) and 941.29 (2) (do) of the statutes; **relating to:** sales and
11 transfers of firearms and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law provides that various conditions, including a background check of a prospective purchaser, must be met before a federally licensed firearms dealer may transfer a handgun after a sale. This bill generally prohibits a person from selling or transferring a firearm unless the sale or transfer occurs through a federally

licensed firearms dealer and involves a background check of the prospective transferee. Under this bill, the following are excepted from that prohibition: a sale or transfer to a firearms dealer, a sale or transfer for which the waiting period for the purchase of a handgun under current law does not apply, a transfer that is by gift, bequest, or inheritance to a family member, or a transfer that is intended to be temporary and that has a purpose that is not illegal. A person who is convicted of violating the prohibition is guilty of a misdemeanor and must be fined not less than \$500 nor more than \$10,000, may be imprisoned for not more than nine months, and may not possess a firearm for a period of two years.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.455 (2) (gr) of the statutes is amended to read:

2 20.455 (2) (gr) ~~Handgun~~ Firearm purchaser record ~~check~~ fee. All moneys
3 received as fee payments under s. 175.35 (2i) (a) to provide services under s. 175.35.

4 **SECTION 2.** 175.33 of the statutes is created to read:

5 **175.33 Transfer of firearms. (1)** In this section:

6 (a) “Family member” means a spouse, parent, grandparent, sibling, child, or
7 grandchild. The relationship may be by blood, marriage, or adoption.

8 (b) “Firearms dealer” has the meaning given in s. 175.35 (1) (ar).

9 **(2)** No person may sell or transfer ownership of a firearm, or purchase or obtain
10 ownership of a firearm, unless one of the following applies:

11 (a) The seller or transferor is a firearms dealer.

12 (b) The seller or transferor makes the sale or transfer to or through a firearms
13 dealer and obtains a receipt under s. 175.35 (2j) (b).

14 (c) The sale or transfer of ownership of the firearm is one of the transfers listed
15 under s. 175.35 (2t).

1 (d) The transferor is transferring ownership of the firearm to a family member
2 by gift, bequest, or inheritance, the transferee is not prohibited from possessing a
3 firearm under s. 941.29, and the transferee is at least 18 years of age.

4 (e) The transferor is transferring ownership of the firearm with the intent that
5 the transfer be temporary, neither the transferor nor the transferee is prohibited
6 from possessing a firearm under s. 941.29, and the purpose of the transfer is not
7 prohibited by law.

8 (3) Any person who intentionally violates sub. (2) is guilty of a misdemeanor
9 and shall be fined not less than \$500 nor more than \$10,000 and may be imprisoned
10 for not more than 9 months. The person is also prohibited under s. 941.29 from
11 possessing a firearm for a period of 2 years.

12 **SECTION 3.** 175.35 (title) of the statutes is amended to read:

13 **175.35 (title) Waiting period for purchase of handguns firearms.**

14 **SECTION 4.** 175.35 (1) (at) of the statutes is amended to read:

15 175.35 (1) (at) “Firearms restrictions record search” means a search of
16 department of justice records to determine whether a person seeking to purchase a
17 handgun firearm is prohibited from possessing a firearm under s. 941.29. “Firearms
18 restriction record search” includes a criminal history record search, a search to
19 determine whether a person is prohibited from possessing a firearm under s. 51.20
20 (13) (cv) 1., 2007 stats., a search in the national instant criminal background check
21 system to determine whether a person has been ordered not to possess a firearm
22 under s. 51.20 (13) (cv) 1., 51.45 (13) (i) 1., 54.10 (3) (f) 1., or 55.12 (10) (a), a search
23 to determine whether the person is subject to an injunction under s. 813.12 or
24 813.122, or a tribal injunction, as defined in s. 813.12 (1) (e), issued by a court
25 established by any federally recognized Wisconsin Indian tribe or band, except the

1 Menominee Indian tribe of Wisconsin, that includes notice to the respondent that he
2 or she is subject to the requirements and penalties under s. 941.29 and that has been
3 filed with the circuit court under s. 806.247 (3), and a search to determine whether
4 the person is prohibited from possessing a firearm under s. 813.125 (4m).

5 **SECTION 5.** 175.35 (1) (b) of the statutes is repealed.

6 **SECTION 6.** 175.35 (2) (intro.) of the statutes is renumbered 175.35 (2) (am) and
7 amended to read:

8 175.35 (2) (am) When a firearms dealer sells or transfers a handgun firearm,
9 he or she may not transfer possession of that handgun firearm to any other person
10 until all of the ~~following have occurred:~~ requirements under par. (cm) have been met.

11 **SECTION 7.** 175.35 (2) (a), (b), (c) and (d) of the statutes are renumbered 175.35
12 (2) (cm) 1., 2., 3. and 4.

13 **SECTION 8.** 175.35 (2) (bm) of the statutes is created to read:

14 175.35 (2) (bm) When a person sells a firearm or transfers ownership of a
15 firearm through a firearms dealer, the person may not transfer possession of that
16 firearm to any person other than the firearms dealer, and the firearms dealer may
17 not transfer or authorize the transfer of possession of that firearm to any person,
18 until all of the requirements of par. (cm) have been met. This paragraph does not
19 apply if a person sells a firearm, or transfers ownership of a firearm, to a firearms
20 dealer.

21 **SECTION 9.** 175.35 (2) (cm) (intro.) of the statutes is created to read:

22 175.35 (2) (cm) (intro.) All of the following must occur before a sale or transfer
23 of a firearm occurs under par. (am) or (bm):

24 **SECTION 10.** 175.35 (2g) (a) of the statutes is amended to read:

1 175.35 (2g) (a) The department of justice shall promulgate rules prescribing
2 procedures for use under sub. (2) (cm) 1. for a transferee to provide and a firearms
3 dealer to inspect identification containing a photograph of the transferee.

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5 175.35 (2g) (b) The department of justice shall promulgate rules prescribing
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7 his or her name, date of birth, gender, race ~~and social security number~~, and other
8 identification necessary to permit an accurate firearms restrictions record search
9 under par. (c) 3. and the required notification under par. (c) 4. The department of
10 justice shall make the forms available at locations throughout the state.

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12 175.35 (2g) (c) 4. c. If the search indicates a felony charge without a recorded
13 disposition, the deadline under sub. (2) ~~(d)~~ (cm) 4. is extended to the end of the 3rd
14 complete working day commencing after the day on which the finding is made. The
15 department shall notify the firearms dealer of the extension as soon as practicable.
16 During the extended period, the department shall make every reasonable effort to
17 determine the disposition of the charge and notify the firearms dealer of the results
18 as soon as practicable.

19 **SECTION 13.** 175.35 (2i) of the statutes is renumbered 175.35 (2i) (a) and
20 amended to read:

21 175.35 (2i) (a) The department shall charge a firearms dealer a \$13 fee for each
22 firearms restrictions record search that the firearms dealer requests under sub. (2)
23 ~~(e)~~ (cm) 3.

24 (b) 1. The firearms dealer may collect the fee under par. (a) from the transferee.

1 (c) The department may refuse to conduct firearms restrictions record searches
2 for any firearms dealer who fails to pay any fee under ~~this subsection~~ par. (a) within
3 30 days after billing by the department.

4 **SECTION 14.** 175.35 (2i) (b) 2. of the statutes is created to read:

5 175.35 (2i) (b) 2. If the transfer is made under sub. (2) (bm), the firearms dealer
6 may collect from the transferor the fee under par. (a) and any additional amount to
7 cover any costs he or she incurs in processing the transfer.

8 **SECTION 15.** 175.35 (2j) of the statutes is renumbered 175.35 (2j) (a).

9 **SECTION 16.** 175.35 (2j) (b) of the statutes is created to read:

10 175.35 (2j) (b) If a person sells a firearm or transfers ownership of a firearm
11 through a firearms dealer under sub. (2) (bm), or sells a firearm or transfers
12 ownership of a firearm to a firearms dealer, the firearms dealer shall provide the
13 person a written receipt documenting the dealer's participation in the sale or
14 transfer.

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16 175.35 (2k) (ar) 2. Check each duplicate notification form received under sub.
17 (2j) (a) against the information recorded by the department regarding the
18 corresponding request for a firearms restrictions record search under sub. (2g). If the
19 department previously provided a unique approval number regarding the request
20 and nothing in the duplicate completed notification form indicates that the
21 transferee is prohibited from possessing a firearm under s. 941.29, the department
22 shall destroy all records regarding that firearms restrictions record search within 30
23 days after receiving the duplicate form.

24 **SECTION 18.** 175.35 (2k) (c) 2. a. of the statutes is amended to read:

1 175.35 (2k) (c) 2. a. A statement that the Wisconsin law enforcement agency
2 is conducting an investigation of a crime in which a ~~handgun~~ firearm was used or was
3 attempted to be used or was unlawfully possessed.

4 **SECTION 19.** 175.35 (2k) (c) 2. b. of the statutes is amended to read:

5 175.35 (2k) (c) 2. b. A statement by a division commander or higher authority
6 within the Wisconsin law enforcement agency that he or she has a reasonable
7 suspicion that the person who is the subject of the information request has obtained
8 or is attempting to obtain a ~~handgun~~ firearm.

9 **SECTION 20.** 175.35 (2k) (g) of the statutes is amended to read:

10 175.35 (2k) (g) If a search conducted under sub. (2g) indicates that the
11 transferee is prohibited from possessing a firearm under s. 941.29, the attorney
12 general or his or her designee may shall disclose to a law enforcement agency that
13 the transferee has attempted to obtain a ~~handgun~~ firearm.

14 **SECTION 21.** 175.35 (2k) (h) of the statutes is amended to read:

15 175.35 (2k) (h) If a search conducted under sub. (2g) indicates a felony charge
16 without a recorded disposition and the attorney general or his or her designee has
17 reasonable grounds to believe the transferee may pose a danger to himself, herself
18 or another, the attorney general or his or her designee may disclose to a law
19 enforcement agency that the transferee has obtained or has attempted to obtain a
20 ~~handgun~~ firearm.

21 **SECTION 22.** 175.35 (2L) of the statutes is amended to read:

22 175.35 (2L) The department of justice shall promulgate rules providing for the
23 review of nonapprovals under sub. (2g) (c) 4. a. Any person who is denied the right
24 to purchase a ~~handgun~~ firearm because the firearms dealer received a nonapproval
25 number under sub. (2g) (c) 4. a. may request a firearms restrictions record search

1 review under those rules. If the person disagrees with the results of that review, the
2 person may file an appeal under rules promulgated by the department.

3 **SECTION 23.** 175.35 (2t) (a), (b) and (c) of the statutes are amended to read:

4 175.35 (2t) (a) Transfers of any ~~handgun~~ firearm classified as an antique by
5 regulations of the U.S. department of the treasury.

6 (b) Transfers of any ~~handgun~~ firearm between firearms dealers or between
7 wholesalers and dealers.

8 (c) Transfers of any ~~handgun~~ firearm to law enforcement or armed services
9 agencies.

10 **SECTION 24.** 175.60 (7) (d) of the statutes is amended to read:

11 175.60 (7) (d) A fee for a background check that is equal to the fee charged under
12 s. 175.35 (2i) (a).

13 **SECTION 25.** 175.60 (15) (b) 4. b. of the statutes is amended to read:

14 175.60 (15) (b) 4. b. A fee for a background check that is equal to the fee charged
15 under s. 175.35 (2i) (a).

16 **SECTION 26.** 938.208 (1) (b) of the statutes is amended to read:

17 938.208 (1) (b) Probable cause exists to believe that the juvenile possessed,
18 used or threatened to use a handgun, as defined in s. ~~175.35 (1) (b)~~ 941.237 (1) (d),
19 short-barreled rifle, as defined in s. 941.28 (1) (b), or short-barreled shotgun, as
20 defined in s. 941.28 (1) (c), while committing a delinquent act that would be a felony
21 under ch. 940 if committed by an adult.

22 **SECTION 27.** 938.34 (4m) (b) 2. of the statutes is amended to read:

23 938.34 (4m) (b) 2. The juvenile has possessed, used or threatened to use a
24 handgun, as defined in s. ~~175.35 (1) (b)~~ 941.237 (1) (d), short-barreled rifle, as
25 defined in s. 941.28 (1) (b), or short-barreled shotgun, as defined in s. 941.28 (1) (c),

1 while committing a delinquent act that would be a felony under ch. 940 if committed
2 by an adult.

3 **SECTION 28.** 938.341 of the statutes is amended to read:

4 **938.341 Delinquency adjudication; restriction on firearm possession.**

5 Whenever a court adjudicates a juvenile delinquent for an act that if committed by
6 an adult in this state would be a felony or for a violation of s. 175.33 (3), the court shall
7 inform the juvenile of the requirements and penalties under s. 941.29.

8 **SECTION 29.** 941.237 (1) (d) of the statutes is amended to read:

9 941.237 (1) (d) “Handgun” ~~has the meaning given in s. 175.35 (1) (b)~~ means any
10 weapon designed or redesigned, or made or remade, and intended to be fired while
11 held in one hand and to use the energy of an explosive to expel a projectile through
12 a smooth or rifled bore.

13 **SECTION 30.** 941.29 (1) (dm) of the statutes is created to read:

14 941.29 (1) (dm) Convicted of a misdemeanor under s. 175.33 (3).

15 **SECTION 31.** 941.29 (1) (dn) of the statutes is created to read:

16 941.29 (1) (dn) Adjudicated delinquent for a violation under s. 175.33 (3).

17 **SECTION 32.** 941.29 (1) (do) of the statutes is created to read:

18 941.29 (1) (do) Found not guilty of a misdemeanor under s. 175.33 (3) by reason
19 of mental disease or defect.

20 **SECTION 33.** 941.29 (2) (dm) of the statutes is created to read:

21 941.29 (2) (dm) The person possesses a firearm subsequent to the conviction,
22 as specified under sub. (1) (dm), unless 2 years have passed since the conviction.

23 **SECTION 34.** 941.29 (2) (dn) of the statutes is created to read:

24 941.29 (2) (dn) The person possesses a firearm subsequent to the adjudication,
25 as specified under sub. (1) (dn), unless 2 years have passed since the adjudication.

1 **SECTION 35.** 941.29 (2) (do) of the statutes is created to read:

2 941.29 (2) (do) The person possesses a firearm subsequent to the finding of not
3 guilty or not responsible by reason of mental disease or defect as specified in sub. (1)
4 (do), unless 2 years have passed since the finding.

5 **SECTION 36.** 941.296 (1) (b) of the statutes is amended to read:

6 941.296 (1) (b) “Handgun” has the meaning given in s. ~~175.35 (1) (b)~~ 941.237
7 (1) (d).

8 **SECTION 37.** 968.20 (3) (b) of the statutes is amended to read:

9 968.20 (3) (b) Except as provided in par. (a) or sub. (1m) or (4), a city, village,
10 town or county or other custodian of a seized dangerous weapon or ammunition, if
11 the dangerous weapon or ammunition is not required for evidence or use in further
12 investigation and has not been disposed of pursuant to a court order at the
13 completion of a criminal action or proceeding, shall make reasonable efforts to notify
14 all persons who have or may have an authorized rightful interest in the dangerous
15 weapon or ammunition of the application requirements under sub. (1). If, within 30
16 days after the notice, an application under sub. (1) is not made and the seized
17 dangerous weapon or ammunition is not returned by the officer under sub. (2), the
18 city, village, town or county or other custodian may retain the dangerous weapon or
19 ammunition and authorize its use by a law enforcement agency, except that a
20 dangerous weapon used in the commission of a homicide or a handgun, as defined
21 in s. ~~175.35 (1) (b)~~ 941.237 (1) (d), may not be retained. If a dangerous weapon other
22 than a firearm is not so retained, the city, village, town or county or other custodian
23 shall safely dispose of the dangerous weapon or, if the dangerous weapon is a motor
24 vehicle, as defined in s. 340.01 (35), sell the motor vehicle following the procedure
25 under s. 973.075 (4). If a firearm or ammunition is not so retained, the city, village,

1 town or county or other custodian shall ship it to the state crime laboratories and it
2 is then the property of the laboratories. A person designated by the department of
3 justice may destroy any material for which the laboratories have no use or arrange
4 for the exchange of material with other public agencies. In lieu of destruction,
5 shoulder weapons for which the laboratory has no use shall be turned over to the
6 department of natural resources for sale and distribution of proceeds under s. 29.934
7 or for use under s. 29.938.

8 **SECTION 38.** 971.17 (1g) of the statutes is amended to read:

9 971.17 (1g) NOTICE OF RESTRICTION ON FIREARM POSSESSION. If the defendant
10 under sub. (1) is found not guilty of a felony, or of a violation under s. 175.33 (3), by
11 reason of mental disease or defect, the court shall inform the defendant of the
12 requirements and penalties under s. 941.29.

13 **SECTION 39.** 973.176 (1) of the statutes is amended to read:

14 973.176 (1) FIREARM POSSESSION. Whenever a court imposes a sentence or
15 places a defendant on probation regarding a felony conviction or regarding a
16 conviction for a misdemeanor under s. 175.33 (3), the court shall inform the
17 defendant of the requirements and penalties under s. 941.29.

18 **SECTION 40. Initial applicability.**

19 (1) This act first applies to sales or transfers of ownership of firearms that occur
20 on the effective date of this subsection.

21 **SECTION 41. Effective date.**

22 (1) This act takes effect on the first day of the 7th month beginning after
23 publication.

24 (END)